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DEPARTMENT OF S[illegible]

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DEPARTMENT OF STATE
L&T
OCT 14 1947
TREATY BRANCH
OFFICE OF THE LEGAL ADVISER

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FOR DUNN AND SETSER

Ref Deptel 2017, Oct 9. Art XXII, para 2. For reasons style and clarity term QUOTE reserves the right to extend UNQUOTE may be substituted for QUOTE may accord UNQUOTE in text new proviso.

Ref Embtel 3118, Oct 8. Art V, para 4. Authorized delete ref interpreters and record suggested minutes explanation.

Article VII, para 1. Both Ital counterproposals unsatisfactory as transmitted. Each appears suffer misconception that important distinction in states US re land ownership rights is between resident and nonresident Amcitizens. Examples such distinctions for persons do not readily come to mind; and for corporations, commonly corporate activities under cited examples irrelevant to treaty. Such distinction in any event lacks utility for instant purpose. Really significant distinction is that between citizens and alien.

First

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First listed Ital counterdraft, involving modification PI version, clause (B), purports give US greater rights than asked. Instead of setting national treatment as standard, subject to downward modification through retaliation, first sentence Ital proposal would enable states US fix for Americans in Italy greater rights than Itals might enjoy in Italy under restrictive Ital land legislation. Do Itals consciously intend this? Second sentence, construable as either cumulative or alternative, apparently reflects above-mentioned misconception and thus in effect apparently fixes national treatment as minimum.

Perhaps following rewrite clause (B) will satisfy Ital objections, and Emb authorized propose:

QUOTE (B) in the case of nationals, corporations and associations of USA, the right to acquire, own and dispose of such property and interests shall be upon terms no less favorable than those which are or may hereafter be accorded by the state, territory or possession of the USA in which such national is domiciled, or under the

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the laws of which such corporation or association is created or organized, to nationals, corporations and associations of the Ital Republic; provided that the Ital Republic shall not be obligated to accord to nationals, corporations and associations of USA rights in this connection more extensive than those which are or may hereafter be accorded within the territories of such Republic to nationals, corporations and associations of such Republic UNQUOTE.

Some merit in form Ital second alternative, involving rewrite entire para, but only if substance properly revised. Nevertheless this form (apparently modeled on China Treat.) not preferable and Dept favors agreement if possible along lines PI formula where apparently meeting of minds already near. If problem continues unsettled Dept suggests Emb attempt suitable redraft, without changing substance, and transmit for Dept. review. For Emb info, recent paper in Calif Law Review claims only seven states actually have land legislation discriminating in major and general way against nonenemy aliens other than those ineligible citizenship.

LOVETT
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